

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of)

MULLET et al.)

Serial No.: 10/790,447)

Filed: February 26, 2004)

For: TENSIONING TOOL FOR)
A COUNTERBALANCE)
SYSTEM FOR)
SECTIONAL DOORS)

Group Art Unit 3634

JOHNSON, Blair M., Examiner

Certificate of Mailing

I hereby certify that this correspondence was deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop FEE AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 13th day of July, 2006.

Michelle Garro, Sec'y to Andrew B. Morton

REQUEST FOR ONE MONTH TIME EXTENSION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby requests an extension of one month to file a response to the Office Action mailed March 17, 2006. Form PTO-2038 for a one month time extension fee (large entity) is enclosed.

This request is not interposed for purposes of delay, but is mandated by the schedules of Applicant and his Attorney. Accordingly, favorable action on this request is believed to be in order.

Adjustment date: 11/13/2006 SDIRETA1
07/24/2006 LWALDEN 00000001 180987 10790447
01 FC:1252 330.00 CR -120.00 OP

Respectfully submitted,

Andrew B. Morton, Reg. No. 37,400
Renner, Kenner, Greive, Bobak, Taylor & Weber
First National Tower, Fourth Floor
Akron, Ohio 44308-1456
Telephone: (330) 376-1242

17/14/2006 HGUTENA1 00000026 10790447

1 FC:1251

120.00 OP

Attorneys for Applicants

Attorney Docket No. WAY.P.US0097

11/13/2006 SDIRETA1 00000002 10790447

120.00 OP

01 FC:1251

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of

MULLET et al.

Serial No.: 10/790,447

Filed: February 26, 2004

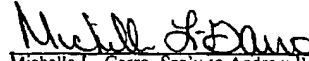
For: TENSIONING TOOL FOR A
COUNTERBALANCE SYSTEM FOR
SECTIONAL DOORS

NOV -3 PM 3:57

U.S. PATENT & TRADEMARK
OFFICE

CERTIFICATE OF MAILING

hereby certify that this correspondence was deposited with the United States Postal Service as first class mail in an envelope addressed to: MAIL STOP 16, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria VA 22313-1450, on this 30th day of October, 2006.



Michelle L. Garro, Sec'y to Andrew B. Morton

TRANSMITTAL SHEET

Enclosed are the following documents:

Request for Refund (w/attached Certificate of Mailing) (3 pages)

Deposit Account Statement (1 page)

Copy of Office Action mailed March 17, 2006

Copy of Response (w/attached Certificate of Mailing) as filed July 11, 2006

Copy of Request for One Month Time Extension (w/attached Certificate of Mailing) as filed
July 11, 2006

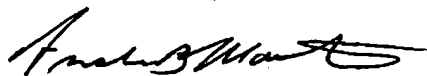
Copy of Form PTO-2038 Credit Card Authorization as filed July 11, 2006

Copy of Return Receipt Postcard bearing OIPE date stamp

Return Receipt Postcard

The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 18-0987. If a withdrawal is required from Deposit Account No. 18-0987, the undersigned attorney respectfully requests that the Commissioner of Patents and Trademarks cite Attorney Docket Number WAY.P.US0097 for billing purposes.

Respectfully submitted,



Andrew B. Morton, Reg. No. 37,400
Renner, Kenner, Greive, Bobak,
Taylor & Weber
First National Tower, Fourth Floor
Akron, Ohio 44308-1456
Telephone: (330) 376-1242

Attorney for Applicants

Attorney Docket No: WAY.P.US0097

_____	third month	_____
_____	fourth month	_____
_____	Excess claims	_____
_____	Issue Fee	_____
_____	Petition Fee	_____
_____	Patent Maintenance Fee	_____
_____	first maintenance fee	_____
_____	second maintenance fee	_____
_____	third maintenance fee	_____
_____	Patent maintenance fee surcharge	_____
_____	Other	\$ _____
TOTAL REFUND REQUESTED:		<u>\$330.00</u>

III. EXPLANATION OF WHY CONTESTED CHARGE IS IN ERROR

The Patent and Trademark Office has charged Deposit Account 18-0987 in the amount of \$330.00 related to Application Serial No. 10/790,447 (Attorney Docket No. WAY.P.US0097). It is our understanding that this fee has been designated as an "Extension for response within second month."

This fee is associated with the Office Action mailed March 17, 2006 (copy attached as Exhibit A and totaling 4 pages), to which a Response, with an attached Certificate of Mailing, was submitted July 11, 2006, along with a one month Extension of Time Request and Form PTO-2038 Credit Card Authorization for payment of a one month Extension of Time fee. A copy of the Response is attached as Exhibit B, the One Month Extension of Time Request as Exhibit C and Form PTO-2038 as Exhibit D. The return receipt postcard, bearing the Patent and Trademark Office OIPE date stamp is attached as Exhibit E.


The Office Action (Election/Restrictions) was mailed on March 17, 2006. The "shortened statutory period for reply is set to expire 3 month(s) or thirty (30) days, whichever is longer, from the mailing date of this communication," making the response due by **June 17, 2006**. The Response was filed on July 11, 2006, inclusive of a one month Time Extension Request and appropriate payment of the fees for a one month Extension of Time.

Thus, the Response was correctly filed with a one month Extension of Time fee, and the additional charge of \$330.00 for the difference between a two month Time Extension fee of \$450.00 and the one month Time Extension fee of \$120.00 as filed is improper. The undersigned Attorney therefore respectfully requests a refund to Deposit Account No. 18-0987 in the amount of \$330.00 for the improper charge.

IV. MANNER OF REFUND

Please make refund by crediting Account No. 18-0987.

Respectfully submitted,


Andrew B. Morton, Reg. No. 37,400
Renner, Kenner, Greive, Bobak, Taylor & Weber
First National Tower -4th Floor
Akron, Ohio 44308-1456
Telephone: (330) 376-1242

Attorney for Applicants

Attorney Docket No. WAY.P.US0097

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,447	02/26/2004	Willis J. Mullet	WAY.P.US0097	9907

7590

03/17/2006

Phillip L. Kenner
RENNER, KENNER GREIVE,
BOBAK, TAYLOR & WEBER
First National Tower, Fourth Floor
Akron, OH 44308-1456

RECEIVED

MAR 20 2006

RENNER, KENNER, GREIVE,
BOBAK, TAYLOR & WEBER

EXAMINER

JOHNSON, BLAIR M

ART UNIT PAPER NUMBER

3634

DATE MAILED: 03/17/2006

USPNS due 6/17/06

DOC

Please find below and/or attached an Office communication concerning this application or proceeding.

(Scanned)

Office Action Summary	Application No.	Applicant(s)	
	10/790,447	MULLET ET AL.	
	Examiner	Art Unit	
	Blair M. Johnson	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-5, drawn to a counter, classified in class 73.
- II. Claims 6-24, drawn to a door system, classified in class 160, subclass 201.
- III. Claims 25 and 26, drawn to a tensioning tool, classified in class 185.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination of the counter has separate utility such as for use with counting revolutions of any adjustable article. See MPEP § 806.05(d).

Invention II and inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the initial claims to the door include a broader recitation of the tensioning tool and further do not include a recitation of the counter. The subcombinations have separate utility such as a

Art Unit: 3634

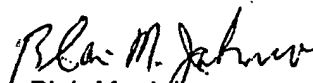
counter for counting revolutions of any adjustable article and a tension adjuster for adjusting the tension on any spring.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Blair M. Johnson
Primary Examiner
Art Unit 3634

BMJ
3/14/06

EXHIBIT B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

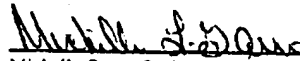
In the application of)
MULLET et al.)
Serial No.: 10/790,447)
Filed: February 26, 2004)
For: TENSIONING TOOL FOR)
A COUNTERBALANCE)
SYSTEM FOR)
SECTIONAL DOORS)

Group Art Unit 3634

JOHNSON, Blair M., Examiner

Certificate of Mailing

I hereby certify that this correspondence was deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop FEE AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 11th day of July, 2006.


Michelle Garro, Sec'y to Andrew B. Morton

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated March 17, 2006, the Applicants, through their attorney, respond as follows.

Amendments to the Claims are shown in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 3 of this paper.

Listing of Claims:

1-24 (Canceled)

25. (Original) A detachable tensioning tool for use with a door system having a door frame enclosing a door opening, a door movably mounted on a track assembly attached to the door frame, a counterbalance system supported on brackets attached to the door frame and at least one tool adapter at an end of the counterbalance system, the tensioning tool comprising, a winding assembly including a housing and adapted to selectively engage and selectively rotate the tool adapter and at least one stop on said housing adapted to operate independent of the brackets to prevent rotation of said housing during tensioning of the counterbalance system.
26. (Original) A detachable tensioning tool according to claim 25, wherein said stop engages the door frame to prevent rotation of said housing during tensioning of the counterbalance system.

REMARKS

In the Action mailed March 17, 2006, it has been asserted that the claims of the application are drawn to different inventions. Specifically, it is asserted that claims 1-5 are drawn to a counter (Group I); claims 6-24 are drawn to a door system (Group II), and claims 25 and 26 are drawn to a tensioning tool (Group III). It is asserted that these inventions are independent inasmuch as they have acquired a separate status in the art in view of their different classification. In view of the assertion, Applicants respectfully request examination of claims 25 and 26 in Group III, and respectfully request that claims 1-24 be cancelled, although Applicants respectfully reserve the right to file divisional applications directed to those cancelled claims.

In the event that a fee required for the filing of this document is missing or insufficient, the undersigned attorney hereby authorizes the Commissioner to charge payment of any fees associated with this communication or to credit any overpayment to Deposit Account No. 18-0987. If a withdrawal is required from Deposit Account No. 18-0987, the undersigned Attorney respectfully requests that the Commissioner of Patents and Trademarks cite Attorney Docket Number WAY.P.US0097 for billing purposes.

Should the Examiner care to discuss any of the foregoing in greater detail, the undersigned attorney would welcome a telephone call.

Respectfully submitted,




Andrew B. Morton, Reg. No. 37,400
Renner, Kenner, Greive, Bobak, Taylor & Weber
First National Tower -- Fourth Floor
Akron, Ohio 44308-1456
Telephone: (330) 376-1242
Facsimile: (330) 376-9646
E-mail: morton@rennerkenner.com

Attorney for Applicants

Attorney Docket No. WAY.P.US0097

EXHIBIT C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of)	
MULLET et al.)	Group Art Unit 3634
Serial No.: 10/790,447)	JOHNSON, Blair M., Examiner
Filed: February 26, 2004)	Certificate of Mailing
For: TENSIONING TOOL FOR)	I hereby certify that this correspondence was deposited with the
A COUNTERBALANCE)	United States Postal Service as first class mail in an envelope
SYSTEM FOR)	addressed to: Mail Stop FEE AMENDMENT, Commissioner
SECTIONAL DOORS)	for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on
)	this <u>14th</u> day of July, 2006.
)	
)	Michelle Garro, Sec'y to Andrew B. Morton

REQUEST FOR ONE MONTH TIME EXTENSION

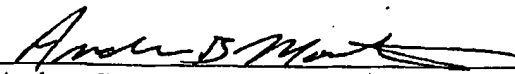
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

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This request is not interposed for purposes of delay, but is mandated by the schedules of Applicant and his Attorney. Accordingly, favorable action on this request is believed to be in order.

Respectfully submitted,


Andrew B. Morton, Reg. No. 37,400
Renner, Kenner, Greive, Bobak, Taylor & Weber
First National Tower, Fourth Floor
Akron, Ohio 44308-1456
Telephone: (330) 376-1242

Attorneys for Applicants

Attorney Docket No. WAY.P.US0097

EXHIBIT D

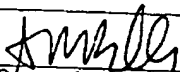
PTO-2038 (12-2005)

Approved for use through 02/28/2006. OMB 0651-0043
United States Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Please Read Instructions before Completing this Form

Credit Card Information

Credit Card Type:	<input type="checkbox"/> Visa	<input checked="" type="checkbox"/> MasterCard	<input type="checkbox"/> American Express	<input type="checkbox"/> Discover
Credit Card Account #:	5466 2619 2001 8573			
Credit Card Expiration Date:	05/07			
Name as it Appears on Credit Card:	ARTHUR M. REGINELLI			
Payment Amount: \$ (US Dollars):	120.00			
Cardholder Signature:			Date:	10 JUL 06

Refund Policy: The USPTO may refund a fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The USPTO will not refund amounts of \$25.00 or less unless a refund is specifically requested and will not notify the payor of such amounts (37 CFR 1.26). Refund of a fee paid by credit card will be issued as a credit to the credit card account to which the fee was charged.

Service Charge: There is a \$50.00 service charge for processing each payment refused (including a check returned "unpaid") or charged back by a financial institution (37 CFR 1.21 (m)).

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Street Address 1: FIRST MERIT TOWER 4TH FLOOR	
Street Address 2: 106 S. MAIN STREET	
City: AKRON	
State/Province: OH	Zip/Postal Code: 44308-1456
Country: USA	
Daytime Phone #: (330) 376-1242	Fax #: (330) 376-9646

Request and Payment Information**Description of Request and Payment Information:**

USPTO extension of time fee

<input checked="" type="checkbox"/> Patent Fee	<input type="checkbox"/> Patent Maintenance Fee	<input type="checkbox"/> Trademark Fee	<input type="checkbox"/> Other Fee
Application No. 10/790,447	Application No.	Application No.	IDON Customer No.
Patent No.	Patent No.	Registration No.	
Attorney Docket No. WAY.P.US0097		Identify or Describe Mark	

If the cardholder includes a credit card number on any form or document other than the Credit Card Payment Form, the United States Patent and Trademark Office will not be liable in the event that the credit card number becomes public knowledge.

EXHIBIT E

Received communication dated: July 11, 2006

IN: MULLET et al. U.S. Patent Application No.
10/790,447



Re: titled: TENSIONING TOOL FOR A
COUNTERBALANCE SYSTEM FOR
SECTIONAL DOORS

Response (w/attached Certificate of Mailing) (3 pgs); request for One
Month Time Extension (w/attached Certificate of Mailing); 2ND Supp'l
Information Disclosure Statement (w/attached Certificate of Mailing);
2nd Supp'l PTO-1449 (1 page); Pto-2038 Credit Card
Authorization (EOT fee); Transmittal Sheet (w/attached Certificate
of Mailing); and Return Receipt Postcard
ABM/mlg WAY.P.US0097



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Patent and
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Shopping
Page**Deposit Account Statement**

Requested Statement Month: July 2006
 Deposit Account Number: 180987
 Name: RENNER, KENNER, GREIVE, BOBAK, TAYLOR & WEBER
 Attention:
 Address: 1610 FIRST NATIONAL TOWER
 City: AKRON
 State: OH
 Zip: 44308-1456
 Country: UNITED STATES

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
07/06	125	11191430	KDS.P0002	8007	\$40.00	\$1,345.12
07/12	3	10893782	JMK.P.4	2201	\$100.00	\$1,245.12
07/13	43	E-REPLENISHMENT		9203	-\$5,000.00	\$6,245.12
07/14	60	11248979	WAY.P.US0083A	1401	\$500.00	\$5,745.12
07/17	185	2297899	MSF.T.US0021	6207	\$100.00	\$5,645.12
07/19	1	10882701	WAY.P.US0108	1201	\$200.00	\$5,445.12
07/19	2	10396860	2624	1201	\$200.00	\$5,245.12
07/20	30	11013727		8021	\$40.00	\$5,205.12
07/24	2	10790447	WAY.P.US0097	1252	\$330.00	\$4,875.12

START
BALANCE
\$1,385.12

SUM OF
CHARGES
\$1,510.00

SUM OF
REPLENISH
BALANCE
\$5,000.00
\$4,875.12

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